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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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JOHN C. MORAN, ATTORNEY, P.C.
4120 EAST 115 PLACE
THORNTON, CO 80233-2623

EXAMINER	
DOAN, KIET M	

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
12/02/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/810,526	ORBACH, JULIAN JAMES	
	Examiner	Art Unit	
	KIET DOAN	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 September 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12-22,34-44,56,57 and 60* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12-22,34-44,56,57 and 60* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _____ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office Action is response to Remarks file on 09/10/2008.

Claim 12, 34 and 56 are amended.

Response to Arguments

2. Applicant's arguments filed 09/10/2008 have been fully considered but they are not persuasive.

In response to Applicant's argument in claim 12, 34 and 56 that reference fails to disclosed "the wireless handset as **detected** the physical location of the meeting when the telecommunication terminal is not engaged in another call with the predefined amount of movement occurring after the incoming call is received by the wireless handset".

Examiner respectfully disagrees and maintains Coombes reference for several reasons. First, the examiner must give each claim its broadest reasonable interpretation. The concepts of "answering the incoming call by the wireless handset in response to a predefined amount of movement in a physical location of the wireless handset as detected by the witless handset when the telecommunication terminal is not engaged in another call with the predefined amount of movement occurring after the incoming call is received by the wireless handset". Croombes is clearly teach the concepts of receiving/**detected** the incoming call when the mobile handset of the user that located in a inconvenient or inappropriate location to answer, that is, **after** receiving the incoming call at a physical location (meeting place, church, theater…) the mobile handset automatic answer the call wherein transmit a pre-recording greeting message

including the amount of waiting time or some other appropriate phrase that users desire, see paragraphs [0008], [0011-0012], [0016], Fig.2 Illustrate and described). In view of the above the rejections using Coombes are maintained.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 12-15, 34-37, 56 and 60 are rejected under 35 U.S.C. 102(e) as being anticipated by Coombes (Pub. No. 2004/0198461).

Consider **claims 12, 34, 56 and 60**. Coombes teaches a method for alerting a calling party of a delay before an incoming call will be answered by a user of a called wireless handset, comprising the steps of:

answering the incoming call by the wireless handset in response to a predefined amount of movement in a physical location of the wireless handset as detected by the witless handset when the telecommunication terminal is not engaged in another call with the predefined amount of movement occurring after the incoming call is received by the wireless handset (Paragraphs [0008], [0011-0012], [0016], Fig.2 show and teach after the mobile handset receiving/detected an incoming call and answering the incoming call when the users is at location that inconvenient to answer);

muting an audio path of the answered call from communication with the user (Paragraph [0016], lines4-5 teach put call on hold); and

transmitting a message that is selected by the user to the calling party. (Abstract, Paragraph [0011-0012] teaches transmitting a pre-recording message to the caller that the user selects to be answer).

Consider **claims 13 and 35**. Coombes teaches the method of claim 12, further comprises the step of maintaining the incoming call from the calling party with the audio path muted to the user; and allowing audio communication by the user with calling party in response to another input from the user (Paragraph [0012], [0016] teach put incoming call on hold and selecting pre recording message that communicated with calling party by the users).

Consider **claims 14 and 36**. Coombes teaches the method of claim 12 further comprises the step of terminating the incoming call after transmission of the message (Paragraph [0015], Fig.3 shows step 314 teach end call when after transmit message).

Consider **claims 15 and 37**. Coombes teaches the method of claim 12 wherein the message is an audio message and the audio message is transmitted via the audio path to the calling party (Paragraph [0011-0012] teach audio message record and transmitted).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 16-18, 20, 22, 38-40, 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coombes (Pub. No. 2004/0198461) in view of Rutledge et al. (US 2002/0142756 A1).

Consider **claims 16, 20, 38 and 42**. Coombes teaches the claimed limitation as discussed in claim 15 **but is silent on** comprises the steps of receiving a time specifying the delay; and inserting the time into a predefined message.

In an analogous art, **Rutledge teaches** comprises the steps of receiving a time specifying the delay; and inserting the time into a predefined message (Paragraph [0012] teach the caller receiving specific time that inserting the time into a predefined message).

Therefore, it would have been obvious at the time that the invention was made to modify Coombes with Rutledge's system, such that the steps of receiving a time specifying the delay; and inserting the time into a predefined message to provide means ensure the caller that the incoming call is received and welcome with the awareness of how long will be on hold.

Consider **claims 17, 39**. The combination of Coombes and Rutledge teach the method of claim 16. Further, Rutledge teaches wherein the step of inserting comprises converting the time to audio information for insertion into the predefined message (Paragraphs [0025]).

Consider **claims 18, 40**. The combination of Coombes and Rutledge teach the method of claim 17. Further, Coombes teaches comprises the step of recording the predefined message (Paragraph [0011] teach recording message).

Consider **claims 22, 44**. Coombes teaches the method of claim 20 further comprises the step of entering the predefined message (Paragraph [0011]).

6. Claims 19, 21, 41, 43 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coombes (Pub. No. 2004/0198461) in view of Rutledge et al. (US 2002/0142756 A1) and further view of well know prior art (Official Notice).

Consider **claims 19, 21, 41, 43, 57.** The combination of Coombes and Rutledge teach **t**he method of claim 12. However, Coombes and Rutledge are silent on wherein the message is a text message and transmit via text message link.

The examiner take Official notice that “the messages is a text message and transmit via text message link” is well known in the art that users of wireless handset can send message by text).

Therefore, it would have been obvious at the time that the invention was made to modify such that the messages is a text message and transmit via text message link to provide means for the convenient and allow the caller reading the reply text message.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIET DOAN whose telephone number is (571)272-7863. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kiet Doan/
Examiner, Art Unit 2617

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617